

Exhibit U

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August 22, 2023

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

-----X

CHARLES DEMPSEY, individually, and L.D. by her
father and natural guardian, CHARLES DEMPSEY,

Plaintiffs,

Docket No.

- against -

20-CV-6780

(EAW) (MWP)

THE CITY OF ROCHESTER, a municipal entity, JAVIER
ALGARIN, ADAM GORMAN, "JOHN DOE" RPD OFFICER
RESPONSIBLE FOR TRAINING JAVIER ALGARIN,

Defendants.

-----X

Zoom Conference

Long Island, New York

August 22, 2023

9:10 a.m.

VIDEOTAPED DEPOSITION of LIEUTENANT
MICHAEL CUILLA, Witness, taken by Plaintiff,
pursuant to Federal Rules of Civil Procedure, and
Notice, held at the above-noted time and place,
before Emma Badger-DeRienzi, a Stenotype Reporter
and Notary Public within and for the State of New
York.

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A P P E A R A N C E S :

ROTH & ROTH LLP

Attorneys for Plaintiffs

192 Lexington Avenue, Suite 802

New York, New York 10016

BY: ELLIOT DOLBY SHIELDS, ESQ.

MUNICIPAL ATTORNEY

CITY OF ROCHESTER LAW DEPARTMENT

Attorneys for Defendants

30 Church Street, Room 400A

Rochester, New York 14614

BY: PEACHIE JONES, ESQ.

ALSO PRESENT:

KEVIN GONZALEZ - Videographer

NELLIE KLUZ - Videographer intern

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(1)

(2)

MR. SHIELDS: Elliot Shields

(3)

representing the plaintiffs, Roth & Roth,

(4)

LLP.

(5)

MS. JONES: Peachie Jones with the

(6)

City of Rochester representing all of the

(7)

defendants.

(8)

THE VIDEOGRAPHER: Thank you,

(9)

Counsels.

(10)

The court reporter is Emma DeRienzis

(11)

with Lexitas, who may now swear in the

(12)

witness.

(13)

(Witness sworn in by court reporter.)

(14)

L I E U T E N A N T M I C H A E L C U I L L A,

(15)

Witness, having first been duly sworn by the

(16)

Notary Public, was examined and testified as

(17)

follows:

(18)

EXAMINATION BY

(19)

MR. SHIELDS:

(20)

Q Good morning. My name is Elliot Shields.

(21)

I represent several people whose dogs were shot by

(22)

PD officers. I'm going to ask you some questions

(23)

today, okay, Lieutenant?

(24)

A Yes.

(25)

Q If there's anything I ask of you that you

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(1) Lieutenant Michael Cuilla
(2) manuals or written policies about defensive tactics
(3) that specifically reference encounters with dogs?

(4) **A So they are, again, just to be taken into**
(5) **account in the totality of circumstances when it**
(6) **comes to the decisions by uses of force.**

(7) Q I want to put up what we'll mark as
(8) Exhibit 5 for this deposition and that's going to be
(9) the 2014 training. Lieutenant, on your screen, do
(10) you see the document entitled "Dog Bite Prevention
(11) for Law Enforcement" from the Humane Society of
(12) Greater Rochester and then down at the bottom, it
(13) says "Humane Society of Greater Rochester 2014"?

(14) **A Yes.**

(15) Q This is -- is this the training document
(16) that you referenced earlier?

(17) **A Yes.**

(18) Q Was 2014 the first time that the Rochester
(19) Police Department provided this training to its
(20) officers?

(21) **A This particular PowerPoint, yeah.**

(22) Q Since 2014, has this PowerPoint been
(23) provided to its officers again?

(24) **A It was provided again as a roll call**
(25) **training.**

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(1) **Lieutenant Michael Cuilla**

(2) Q I'm going to put up what's going to be
(3) marked as Exhibit 6 for this deposition. So that's
(4) going to be the roll call training document and it's
(5) dated December 2019 and it says "Roll Call Training
(6) December 2019 LE Dog Bite Prevention Humane Society
(7) of Greater Rochester." Do you see that document on
(8) your screen, Lieutenant?

(9) **A I do.**

(10) Q If we go to -- go back to Exhibit 5, I
(11) just want to do some comparison between Exhibit 5
(12) and Exhibit 6. Do you see the page count here on
(13) the right? Can you see my cursor on your screen?

(14) **A One second, I'm sorry. I can, yes.**

(15) Q This looks like it's a 51-page document;
(16) is that right?

(17) **A Yes, that's correct.**

(18) Q Then if we go to Exhibit 6 and we go down
(19) to the page count, that's a 24-page document; is
(20) that right?

(21) **A That's correct.**

(22) Q If we go back to Exhibit 5 -- well, before
(23) I scroll through it and stuff, let me just ask you,
(24) other than the difference in the number of slides or
(25) pages between these two documents, are there any

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(1) **Lieutenant Michael Cuilla**

(2) Q Mr. DiDomenico testified at his deposition
(3) that the 2014 training was a two-hour awareness
(4) course to give some tools to officers for how to
(5) interact with dogs that they might encounter during
(6) their police duties. Is that an accurate recitation
(7) of Mr. DiDomenico's training that he put together?

(8) **MS. JONES: Objection.**

(9) **A Yes, that seems accurate.**

(10) Q This two-hour training that was given to
(11) officers in 2014, was that a training that was
(12) required department-wide?

(13) **A Yes. It's part of our -- one of our**
(14) **inservice.**

(15) Q You testified earlier that you had
(16) gathered the -- I guess it would be more accurate to
(17) call it a list, that was an Excel spreadsheet of the
(18) officers who were assigned to go to that specific
(19) training on specific days?

(20) **A Yes.**

(21) Q And then when officers attend the
(22) training, they would be a written sign-in sheet
(23) where they would sign their name?

(24) **MS. JONES: Objection.**

(25) **A Yes. That is the common practice.**

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(1) **Lieutenant Michael Cuilla**

(2) Q What happens if an officer has an
(3) emergency and can't attend the training on their
(4) assigned day? For emergency or whatever reason,
(5) they don't make the training on that assigned day,
(6) are they required to make up the training on another
(7) day?

(8) A Yes. They should be rescheduled by their
(9) supervisor.

(10) Q Let's say an officer misses a specific
(11) training about a specific topic, so here, the dog
(12) bite prevention training, do they have to make up
(13) that specific training about dog bite prevention or
(14) do they just have to simply make up like hours of
(15) training that they missed? Could they make it up by
(16) attending a different training?

(17) MS. JONES: Objection.

(18) A No. They have to make up the exact
(19) training.

(20) Q Now, this Humane Society training, it was
(21) an awareness course, so does that mean that it did
(22) not train RPD officers about the policies of the
(23) Rochester Police Department?

(24) A The course is provided by the Humane
(25) Society regarding specifically dog behavior and

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(1) **Lieutenant Michael Cuilla**

(2) Q We'll talk about imminent threat in a
(3) minute here, but I want to just follow up on what
(4) you just said a little bit. Are officers taught at
(5) the dog bite prevention course by Mr. DiDomenico
(6) that OC spray is a viable option to use against a
(7) dog that either appears like it might begin
(8) attacking or is attacking?

(9) A So possibly, DiDomenico gives officers
(10) options to deal with animals that may be at
(11) different levels of aggression. However, once
(12) officers determine that the animal was attacking or
(13) an imminent threat to a person or destructive,
(14) injured or threatening, then the officers are
(15) trained to utilize their firearm.

(16) Q Are officers taught about the use of a
(17) beanbag gun against dogs?

(18) A No.

(19) Q Have you ever been trained or taught -- or
(20) has the RPD ever trained or taught its officers, you
(21) included, that a beanbag gun is a potential less
(22) lethal option that could be used against a dog?

(23) A A beanbag gun is, for the most part, not
(24) readily available to officers when encountering
(25) dogs. If a plan were to be made and enough time was

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(1) **Lieutenant Michael Cuilla**

(2) **the training can actually be rather lengthy over**
(3) **time.**

(4) Q The training bulletin that we marked as
(5) Exhibit 2 from 2019 that was entitled "Warrantless
(6) Searches on Curtilage." It was a two-page document.
(7) Is that the type of roll call that would have been
(8) more like eight minutes or more like a series of
(9) days like you just testified to about the De Bour
(10) training?

(11) A That would be up to the supervisors. If
(12) they believe that the officers understood the
(13) training within the eight to ten minutes, then they
(14) wouldn't bring it up in roll call again other than
(15) to reiterate it. However, really, any roll call
(16) training officers are going to get at least more
(17) than once, however many times the supervisors do the
(18) roll calls, however many times it takes to hit all
(19) of the officers as well as make sure the officers
(20) have an understanding.

(21) Q Officer Cala, before the 2019 roll call
(22) training, when is the last time before that that he
(23) had received any training regarding the search of a
(24) curtilage?

(25) A For a specific search to curtilage, again,

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(1) Lieutenant Michael Cuilla

(2) **A I'm going to have to reference the sheet**
(3) **for the hire date. I do not have them memorized.**

(4) Q That is more than fine.

(5) **A 2017.**

(6) Q If he was hired in 2017 --

(7) **A Then he received the training in 2017 or**
(8) **early 2018 when he received it in the academy and it**
(9) **was touched upon in the field training.**

(10) Q I forget what your answer was to my
(11) question earlier if you know when Officer DiDomenico
(12) began doing the Humane Society training at the
(13) academy. Do you remember what year that happened
(14) in?

(15) **MS. JONES: Objection.**

(16) **A I would have to check with the academy as**
(17) **to when that started.**

(18) Q Is there a possibility that there might
(19) have been a gap there and then Officer Algarin maybe
(20) didn't receive that training at the academy?

(21) **A As of 2017, no. The training definitely**
(22) **had started prior to 2014.**

(23) Q Prior to the incident in October of 2018,
(24) when is the last time that Officer Algarin received
(25) any training about a search of the curtilage to a